UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,358	02/08/2001	Freeman Leigh Rawson III	AUS920000516US1	5784

44994 7590 11/05/2004		EXAMINER
IBM CORPORATION (DWL)		PATEL, HARESH N
C/O LALLY & LALLY, L.L.P.		
P. O. BOX 684749	ART UNIT	PAPER NUMBER
AUSTIN, TX 78768-4749	2154	

DATE MAILED: 11/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/779,358	RAWSON, FREEMAN LEIGH
	Examiner	Art Unit	
	Haresh Patel	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 July 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4)☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. *10/29/2004* .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1-20 are presented for examination.

Response to Arguments

2.   Applicant's arguments filed 7/30/2004 have been fully considered but they are not

persuasive. Therefore, rejection of claims 1-20 is maintained.

Applicant argues (1) Yuasa et al, 6,085,238 (Hereinafter Yuasa) and Ganz et. al,

6,049,549 (Hereinafter Ganz) in combination do not disclose, "a low level polling request as a

means for periodically transmitting management information to a first management server, as

recited in claim 1". The examiner disagrees. In response to applicant's argument that the

references fail to show certain features of applicant's invention, it is noted that the features upon

which applicant relies "a low level polling request as a means for periodically transmitting

management information to a first management server, as recited in claim 1" is not recited in the

rejected claim(s). Although the claims are interpreted in light of the specification, limitations

from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26

USPQ2d 1057 (Fed. Cir. 1993). Therefore the rejection in maintained as disclosed above. The

claim is open-ended (comprising). Also, page 19, lines 6-12, clearly states, "It is understood that

the form of the invention shown and described in the detailed description and the drawings are to

be taken merely as presently preferred examples. It is intended that the following claims be

interpreted broadly to embrace all the variations of the preferred embodiments disclosed".

Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the

examiner's interpretation of these actions. Therefore, Yuasa and Ganz meet the claimed limitations.

Applicant argues (2) Yuasa and Ganz in combination do not disclose, "a process of periodically prompting the second server being application server to send management information, buffered in its NIC, to the management server, a management server would be periodically prompting the application servers for their management information. The manner in which these periodic prompts from the management server would obtain access to the media in a wireless LAN implementation, implementing the management information that prompts as low level frames to simplify and improve the efficiency of the protocol processing and thereby conserving network bandwidth, the indicator of the polling request is the recipient of the response prompted by the request, low level polling to transfer management information or any kind of data generated by application level code, as cited in claim 1". The examiner disagrees. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies "a process of periodically prompting the second server being application server to send management information, buffered in its NIC, to the management server, a management server would be periodically prompting the application servers for their management information. The manner in which these periodic prompts from the management server would obtain access to the media in a wireless LAN implementation, implementing the management information that prompts as low level frames to simplify and improve the efficiency of the protocol processing and thereby conserving network bandwidth, as cited in claim 1", is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the

claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Therefore the

rejection in maintained as disclosed above. The claim is open-ended (comprising). Also, page

19, lines 6-12, clearly states, "It is understood that the form of the invention shown and described

in the detailed description and the drawings are to be taken merely as presently preferred

examples. It is intended that the following claims be interpreted broadly to embrace all the

variations of the preferred embodiments disclosed". Since, applicant's claims contain broadly

claimed subject matter, it clearly reads upon the examiner's interpretation of these actions.

Therefore, Yuasa and Ganz meet the claimed limitations.

Applicant argues (3) that "the amended claims, wherein, the messages used to transfer

management information are formatted unconventionally in that they include a MAC header, but

no other communication protocol header, no IP header and no TCP header, MAC header is the

exclusive header, implementing a packet that incorporates a standard MAC header but omits the

higher level headers, delegating management information transmission entirely to the server NIC

cards, is able to make beneficial use of these special purpose packets because these packets have

only a single header and protocol processing efficiency is improved and less resources are

consumed transmitting management information". The examiner disagrees. In response to

applicant's argument that the references fail to show certain features of applicant's invention, it is

noted that the features upon which applicant relies "the amended claims, wherein, the messages

used to transfer management information are formatted unconventionally in that they include a

MAC header, but no other communication protocol header, no IP header and no TCP header,

MAC header is the exclusive header, implementing a packet that incorporates a standard MAC

header but omits the higher level headers, delegating management information transmission

entirely to the server NIC cards, is able to make beneficial use of these special purpose packets because these packets have only a single header and protocol processing efficiency is improved and less resources are consumed transmitting management information" is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Therefore the rejection in maintained as disclosed above. The claim is open-ended (comprising). Also, page 19, lines 6-12, clearly states, "It is understood that the form of the invention shown and described in the detailed description and the drawings are to be taken merely as presently preferred examples. It is intended that the following claims be interpreted broadly to embrace all the variations of the preferred embodiments disclosed". Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of these actions. Therefore, the claimed limitations are meet by the cited arts.

Specification

3.   The disclosure is objected. Some of the informalities are:

      i.   Page 19, line 12, is missing ".".

Appropriate correction is required.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5.   Non-amended, claims 1, 2, 7, are rejected under 35 U.S.C. 103(a) as being unpatentable over Yuasa et al. 6,085,238 (Hereinafter Yuasa) in view of Ganz et. al. 6,049,549 (Hereafter Ganz), as per paper number 2, dated 3/31/2004.

6.   Non-amended, claim 6, is rejected under 35 U.S.C. 103(a) as being unpatentable over Yuasa and Ganz in view of "Official Notice", as per paper number 2, dated 3/31/2004.

7.   Amended, claims 3 and 4, are rejected under 35 U.S.C. 103(a) as being unpatentable over Yuasa and Ganz in view of "Official Notice".

8.   As per claims 3 and 4, Yuasa and Ganz discloses limitations rejected under claim 2. However, Yuasa and Ganz do not specifically mention about the second server buffer being dedicated for the storage of management information. "Official Notice" is taken that both the concept and advantages of providing the second server buffer is dedicated for the storage of management information is well known and expected in the art.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the second server buffer being dedicated for the storage of management information with the teachings of Yuasa and Ganze to facilitate a buffer dedicated for storing management information. By implementing a well-known concept of having a dedicated buffer, to store management information, would help same type of information stored at one location and to avoid mixing with other type of information, for example, virus data from other sources.

9.   Amended, claims 5, 8-20, are rejected under 35 U.S.C. 103(a) as being unpatentable over

Chuah-Lucent in view of "Official Notice".

10.   As per claims 5, 8, 9, 15, Chuah-Lucent very clearly discloses the following:

a data processing network (e.g., figure 1), comprising:

first and second servers each connected to a central switch (e.g., figure 1), wherein each

server;

wherein the second server is configured to store management information (e.g.,

management information, col., 30, line 63 – col., 31, line 18) generated by the second sever in

the second server buffer (e.g., col., 17, lines 1-24);

wherein the first server NIC is configured to send a low level polling request (e.g., col.,

6, lines 1-15) to the second server NIC (e.g., figure 11); and

wherein the second server NIC is configured to respond (e.g., col., 6, lines 1-15) to the

polling request with a low level transfer of the buffered information to the first server NIC (e.g.,

figure 11),

wherein, the low level polling request comprises a request having a single header

wherein the single header is a MAC header (e.g., figure 8A, also, 802.11 protocol inherent

property, col., 40, lines 50 - 63),

buffering management information generated by the second server (e.g., col., 14, lines

42 – 65),

periodically prompting (e.g., use of timer, col., 6, lines 28 – 50) the second server via a

packet formatted at a low level of the network communication protocol (e.g., use of 802.11

protocol, col., 40, lines 50 – 63) wherein the packet includes a single media access control

(MAC) header (e.g., figure 8A),

responsive to each polling request (e.g., col., 32, lines 25- 44), sending the buffered

information (e.g., payload information, col., 17, lines 1 – 24) from the second server to the first

server at the low level of the communication protocol (e.g., use of 802.11 protocol, col., 40, lines

50 – 63),

buffering the transferred information in a buffer of the first server (e.g., use of buffer of

the server, col., 11, lines 1 – 20).

However, Chuah-Lucent does not specifically mention about a network interface card

(NIC) comprising a processor and a buffer. "Official Notice" is taken that both the concept and

advantages of providing a network interface card (NIC) comprising a processor and a buffer is

well known and expected in the art.

It would have been obvious to one of ordinary skill in the art at the time the invention

was made to include a network interface card (NIC) comprising a processor and a buffer with the

teachings of Chuah-Lucent to facilitate a NIC to process the data it uses for communication with

other device. The well known use of NIC buffer, for example, Ganz et al 6,09,549, figure 2,

would be helpful to store the information that is processed / received by the well known use of

NIC processor, for example, Ganz et al 6,09,549, figure 2, as per the software instructions.

11.   As per claims 10, 20, Chuah-Lucent discloses the following:

prompting the second server comprises issuing a polling request from a NIC of the first

server to a NIC of the second server (e.g., col., 32, lines 25- 44).

12.   As per claims 11, 17, Chuah-Lucent discloses the following:

wherein issuing the polling request comprises issuing the request at the data link level of

the network communication protocol (e.g., use of 802.11 protocol, col., 40, lines 50 – 63).

13.   As per claims 12, 16, Chuah-Lucent discloses the following:

initiating a timer and issuing the polling request is responsive to expiration of the timer

(e.g., use of timer, col., 6, lines 28 – 50).

14.   As per claims 13, 18, Chuah-Lucent discloses the following:

server appliance and a plurality of additional server appliances (e.g., figures 2 and 11)

and broadcasting the polling request to each of the server appliances (e.g., col., 12, lines 1 – 15).

15.   As per claims 14, 19 Chuah-Lucent discloses the following:

determining that each of the server appliances has responded to the polling request (e.g.,

col., 12, lines 1 – 15).

However, Chuah-Lucent does not specifically mention about further uploading the

transferred information from a NIC buffer of the first server to a host memory of the first server.

"Official Notice" is taken that both the concept and advantages of further uploading the

transferred information from a NIC buffer of the first server to a host memory of the first server

is well known and expected in the art.

It would have been obvious to one of ordinary skill in the art at the time the invention

was made to include further uploading the transferred information from a NIC buffer of the first

server to a host memory of the first server with the teachings of Chuah-Lucent to facilitate a NIC

to have a server to use/process the information NIC received from other network device. It is

well-known in the art for a NIC to forward the received information to the server's host memory

so the received information can be stored for future processing or future retrieving of the

information.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Haresh Patel whose telephone number is (703) 605-5234. The

examiner can normally be reached on Monday, Tuesday, Thursday and Friday from 10:00 am to

8:00 pm.

    If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Follansbee, can be reached at (703) 305-8498.

    The appropriate fax phone number for the organization where this application or

proceeding is assigned is (703) 872-9306.

    Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is (703) 305-3900.

Haresh Patel

October 26, 2004

JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100